

STATE OF MICHIGAN
COURT OF APPEALS

BONITA WILLIAMS,

Plaintiff-Appellant,

v

ESTATE OF WAITERS,

Defendant-Appellee.

UNPUBLISHED

July 29, 2004

No. 246993

Wayne Circuit Court

LC No. 02-203927-CH

Before: Sawyer, P.J., and Gage and Owens, JJ.

PER CURIAM.

Plaintiff appeals from a judgment of the circuit court entered on defendant's motion for summary disposition. We reverse and remand.

Plaintiff alleges that she entered into an agreement with Edward W. and Gladys R. Waiters to purchase a parcel of residential real estate in the City of Detroit. That agreement, apparently crafted by themselves, provided as follows:

11-24-98

To whom it may concern.

This is to certify that a virable [sic—viable?] agreement has been made tween [sic] Mother Bonita Williams and Apostle and mother E. W. Waiters to purchase the house at 3017 Fischer St. She will be able to take psrcession [sic—possession?] any day after 11-24-98. We are selling the house to Mother Williams for the Sum of \$5000.00 to paid [sic—be paid?] what ever she can down , . After one yeay [sic] we will have a land contract prepare [sic] by lawyer Thomas and at that time what ever she can pay permonth [sic] will be discuss [sic].

She is responsible for repairs and emprovement [sic], she accepting [sic] it as is.

This document is then signed by both of the Waiters and by Williams and was notarized by Edward W. Waiters on 11/27/98.

Plaintiff alleges that she has paid \$3,000 of the purchase price. Unfortunately, the Waiters both died within a year of the execution of the document, before the purchase price was paid off and before the land contract referred to in the document was executed.

Plaintiff was living in the home and defendant commenced proceedings to have her evicted. Plaintiff then filed this action to quiet title. The trial court ruled on a motion for summary disposition in favor of defendant and entered a judgment quieting title in defendant's favor. The trial court ruled in essence that there was no enforceable agreement to sell the property because the land contract was never executed. We disagree.

The requirement for compliance with the statute of frauds in a real estate transaction was set forth in *In re Skotzke Estate*, 216 Mich App 247, 249; 548 NW2d 695 (1996):

Case law has established that to comport with this statute, a writing transferring an interest in land must be certain and definite. Generally, the parties, property, consideration and time of performance must be included. *McFadden v Imus*, 192 Mich App 629, 633; 481 N W2d 812 (1992); *Marina Bay Condominiums, Inc v Schlegel*, 167 Mich App 602, 606; 423 NW2d 284 (1988).

The agreement offered by plaintiff clearly identifies the parties, property and purchase price. The only term that is somewhat vague is the time of performance. Even there, however, we believe that the agreement provides sufficient guidance to be enforceable. The agreement, in essence, provides that plaintiff would pay what she could when she could during the first year after the agreement, at which time a land contract would be executed covering the remaining balance. What is missing from the agreement is what the terms of that land contract would be. But that merely means that the sellers could legitimately demand whatever terms they wished, which presumably could mean that they could insist on a "land contract" that required immediate payment of the remaining balance.

Plaintiff, however, claims that she was ready, willing and able to immediately pay the remaining balance. If true, the missing land contract terms are irrelevant.

Accordingly, we hold that, if plaintiff is able to establish that the agreement executed between her and the Waiters is legitimate and that she is able to pay the remaining balance, then there is an enforceable agreement. Therefore, the trial court erred in concluding that there was no genuine issue of material fact and that defendant was entitled to judgment as a matter of law. *Morales v Auto-Owners Ins Co*, 458 Mich 288, 294; 582 NW2d 776 (1998).

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction. Plaintiff may tax costs.

/s/ David H. Sawyer
/s/ Hilda R. Gage
/s/ Donald S. Owens